HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 27304 of 2005

Dated: 29-08-2007

Between:

M.Ravidra and 4 others.

..... PETITIC

AND

The Government of Andhra Pradesh
Revenue (Excise) Department,
Secretariat, Hyderabad and 3 others.

.....RESPONI

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HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 27304 of 2005

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the a respondent No.1 in demanding licence fee for the period from 01-07-2 30-06-2006 without giving remission of the licence fee for the period fr 07-2005 to 31-07-2005 as illegal and arbitrary.

In response to a tender notification for the lease of right for th 2005-2006 to sell Indian Liquor and Foreign Liquor by shop, the pet participated in the tender process and offered their bids for ward Nos.: and 42 respectively. The petitioners emerged as successful bidders said auction process. The lease was to commence from 01-07-2005. admitted case of the petitioners that they were unable to secure s premises in the respective wards for which they became successful b The petitioners, therefore, approached the respondents for permitting t locate their shops in other wards. On the basis of the report dated 20-0 submitted by respondent No.2, respondent No.1 issued proceedings da 17-08-2005 whereby the proposal of respondent No.1 was accepted a petitioners were permitted to open their shops in the changed loc Thereafter, respondent No.3 issued licenses on 19-08-2005 to the petit

The common grievance of the petitioners is that though licence granted on 19-08-2005, i.e. one month 20 days after the commencemer excise year, the respondents have not considered their requ proportionate remission of the licence fee.

Heard Sri.A.Jagannadha Rao, learned counsel for the petitioner K.Siva Kumar Reddy, learned Government Pleader for Prohibition and

Learned counsel for the petitioners reiterated the submissions co in the affidavit filed in support of the writ petition and stated that sir petitioners could not secure suitable premises in their respective ward

had to seek change of location of the shops and that the respondents favourably responded to their request for change of location of the ought to have considered the cases of the petitioners for grant of propo remission of the licence fees for the period up to which the licence w granted after the commencement of the excise year.

Opposing the contentions of the learned counsel for the petition learned Government Pleader submitted that under Rule 27 of the Pradesh Excise (Lease of Right of Selling by Shop and Conditions of L Rules, 2005, an obligation is cast on the successful tenderer to select s premises in the light of the restrictions placed thereunder and th petitioners who failed to secure the premises within their wards, complain of the so called delay in grant of licenses. He further submit on the petitioners' own showing that as they could not secure the pr within their respective wards and as they sought permission for loca shops at alternative places, the licence could not be granted bef commencement of the excise year.

I have considered the respective submissions of the learned coun

From the admitted facts of the case, it is clear that the petitioners w successful bidders in respect of ward Nos.2, 11, 14 and 42, failed to suitable premises within their respective wards. It is also not in dispute the petitioners' representation, respondent No.2 sent a report on 20-07- respondent No.1 and on 17-08-2005, the latter granted permission for of location of the proposed shops of the petitioners. If at all there is an in grant of licence, it is the petitioners' own creation and they cannot bla respondents. Moreover, neither the Rules nor the auction conditions er a situation where a licensee has a right to claim remission of licence the event of delayed commencement of the business. Unless the pet make out a case of deliberate inaction on the part of the respond granting licence and thereby preventing the licensee commencing/conducting his business, a licensee is not entitled proportionate remission for the period during which he could not c business. The admitted facts on record clearly establish that it is c

account of the petitioners' failure to select suitable premises, that the delay of about 50 days in granting licence and in my considered vie delay cannot be attributed to the respondents.

For the reasons aforementioned, the petitioners failed to make case and hence they are not entitled to the grant of relief in this writ peti

The writ petition is accordingly dismissed.

As a sequel to dismissal of the main writ petition, W.P.M.P.No.3 2005 filed by the petitioner for interim relief is dismissed as infructuou costs.

C.V.NAGARJUNA RE

Date: 29-08-2007
KLP